

### **REMARKS**

Claims 1-29 are currently pending in the application. By this amendment, claims 16, 17, 19 and 24-26 are amended for the Examiner's consideration. The above amendments do not add new matter to the application and are fully supported by the specification. For example, support for the amendments is provided at Figures 1 and 2, and at page 4 of the specification.

Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

#### ***Allowed Claims***

Applicants appreciate the indication that claims 5, 7-9, 11, 13-15 and 17 contain allowable subject matter. Applicants submit that all of the claims are in condition for allowance for the following reasons.

#### ***In the Drawings***

Attached hereto is a replacement drawing for figure 2, without any markings. The changes to the drawings include reference numerals 23 and 24, which are disclosed in the specification as inlet and outlets. The Examiner is requested to provide an indication of such consideration in the next Office Action.

#### ***35 U.S.C. §112 Rejection***

Claims 16, 17, 24 and 26 were rejected under 35 U.S.C. §112, 2<sup>nd</sup> paragraph. This rejection is respectfully traversed.

Applicants have amended claims 16 and 17 to recite "refrigeration counter" in accordance with the Examiner's suggestion. Applicants submit that the specification makes no distinction between a refrigerated counter and a refrigeration counter, and submit that these amendments are thus being made merely and only to advance prosecution of the application. Applicants thus submit that these amendments are not narrowing amendments and are not made for reasons of patentability.

Applicants have amended claim 17 to provide proper antecedent basis for the "heat exchanger". Claim 24 has been amended to delete "one" in the first line thereof, as suggested by the Examiner.

As to the rejection of claim 26, Applicants have not made any amendments thereto. Applicants submit that the recitation of "substantially parallel to the central body" is definite as it relates to the relationship of the cooling element to the central body. Applicants note that the orientation of the central body is irrelevant and can be in any orientation. The claim only recites the relationship between the cooling element oriented substantially parallel to the central body.

Accordingly, Applicants respectfully request that the rejection over claims 16, 17, 24 and 26 be withdrawn.

### ***35 U.S.C. §102 Rejection***

Claims 1-4, 6, 10 and 12 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 4,810,856 to Jovanovic. Claim 18 was rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 4,663,517 to Huff. Claims 19-24 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 4,190,100 to Wallace. Claims 19-27 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 5,025,639 to Thomas. Claims 19-22 and 28 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 1,124,851 to Burkle. Claims 19, 24, 28 and 29 were rejected under 35 U.S.C. §102(e) for being anticipated by U. S. Patent No. 6,692,783 to Hunter. These rejections are respectfully traversed.

According to MPEP §2131,

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Applicants submit that the claims are distinguishable over the above references for the reasons stated below.

### **Claims 1-4, 6, 10 and 12**

Claim 1 is directed to a rotating spit. The rotating spit is designed to ensure that layered foodstuffs remain perfectly fresh and hygienic over a longer period of time. This is

accomplished by cooling a central body that supports the foodstuff. More specifically, claim 1 recites, in pertinent part:

a central body that supports foodstuffs arranged around  
the central body, the central body being provided with cooling;  
and  
a heating element acting outside of the foodstuffs.

Applicants submit, though, that Jovanovic teaches away from the claimed invention, in that it is directed to steaming the foodstuff from an interior in order to expedite or increase cooking speed. This clearly teaches away from the claimed invention.

More specifically, Jovanovic clearly sets forth at col. 2 that steam is used to inject into the foodstuff in order to hasten cooking. In particular, col. 2, lines 10-20 discloses:

Preferably, the spit connected to the drive means at one end is detachably engageable at the opposite end with rotary joint through which the steam generator is connected to the interior of the spit which has a steam injection nozzle opening into the rotary joint.

Because of the injection of steam into the interior of the fowl or other food item rotated on the spit during the duration of cooking via the infrared heaters, the fowl is cooked simultaneously, externally by the infrared action and internally by the steam which is introduced at atmospheric pressure into the abdominal cavity of the fowl.

To further explain, Jovanovic discloses at col. 4, lines 32-37 that a nozzle is fixed to an instantaneous heating boiler or vapor generator 30. This boiler is used to feed steam to the internal cavity of the fowl to which the interior is steamed while the exterior is cooked by infrared energy. (See, col. 5, lines 30-33.) As such, it is clear that Jovanovic teaches away from the claimed invention.

*Dependent Claims 2-4, 6, 10 and 12*

Claims 2-4, 6, 10 and 12 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on claim 1. Also, Applicants submit that these

claims also include allowable subject matter on their own merits.

More specifically, claim 2 recites:

The rotating spit as claimed in claim 1, wherein the central body has a hollow space which is filled with a cold accumulator.

Claim 3 recites:

The rotating spit as claimed in claim 1, wherein the central body is provided with at least one channel through which a cooled medium flows.

Claim 4 recites:

The rotating spit as claimed in claim 1, wherein the central body is coupled to a heat exchanger.

Claim 10 recites:

The rotating spit as claimed in claim 1, wherein the central body is provided with outlet openings which communicate with channels inside the foodstuffs to allow a cooled medium to flow through the foodstuffs.

Claim 12 recites:

The rotating spit as claimed in claim 10, wherein the channels formed inside the foodstuffs are connected to a coolant stream via radially oriented openings in an outer wall of the central body.

Contrary to these claims, Jovanovic provides steam to the foodstuff, not a cooling. As such, Jovanovic does not disclose, in any manner whatsoever, a cold accumulator or a cooled medium. Also, Jovanovic does not disclose a heat exchanger; instead, Jovanovic discloses a boiler.

Accordingly, Applicants respectfully request that the rejection over claims 1-4, 6, 10 and 12 be withdrawn.

Claim 18

Claim 18 recites, in pertinent part:

a central body that supports foodstuffs arranged around the central body, and

a heating element acting outside of the foodstuffs, the heating element being provided, at a lower end, with a device by which it is secured pivotably and displaceably on a U-shaped holder on one side, with its lower end on an upper branch of the holder, the upper branch of the holder being provided underneath the foodstuffs.

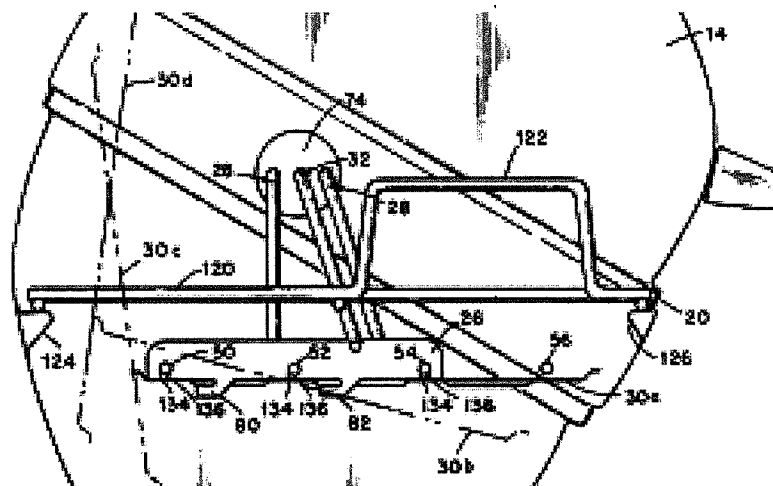
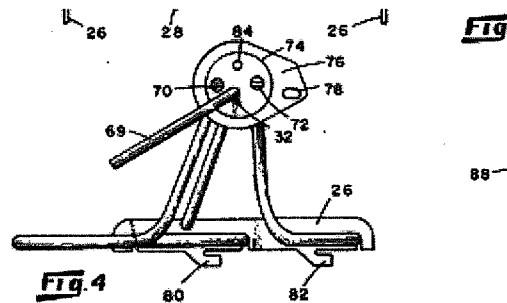
Applicants submit that Huff does not show all of the features of claim 18. Specifically, Huff does not show, for example, a heating element being provided, at a lower end, with a device by which it is secured pivotably and displaceably on a U-shaped holder on one side, with its lower end on an upper branch of the holder and the upper branch of the holder being provided underneath the foodstuffs.

More specifically, the Examiner is of the impression that a heating element 28 is mounted at a lower end to an upper branch 68 of a U shaped holder 32. This is not accurate. Instead, as disclosed at col. 3, lines 55-58, the electric heating element 28 is connected and supported by a bracket 26. The bracket 26, in turn, is spot welded to the holder 32. (See, e.g., col. 4, lines 47-49.) Also, it is disclosed at col. 7, lines 7-15,

The heating element segments 50, 52 and 54 are secured on the support bracket 26 in key-hole shaped channels 134. In order to insert the heating elements 50, 52 and 54 into the channels 134, flanges 136 are bent perpendicularly to allow sufficient room to insert the heating element. Once the elements 50, 52 and 54 are inserted, the flanges 136 are bent back to the position shown in FIG. 7 and they secure the heating elements 50, 52 and 54 within the key-hole shaped channels 134.

There is no disclosure whatsoever, though, which would teach that the heating element is connected to the holder 32.

Also, Applicants note, referring to FIG. 7 partially reproduced below and FIG. 4, that the heating element is mounted to a bracket 74, and not to the holder 32. The bracket 74 allows for rotation of the heating element.



More specifically, col. 5, line 1 to col. 6, line 2 describes the mechanism of rotation of the heating element 28 and the bracket 32. Applicants note that these passages, though, do not disclose the heating element 28 is secured pivotably and displaceably on the holder 32. Instead, both the holder 32 and the heating element 28 are connected to an interconnecting segment 66. More specifically, as disclosed at col. 5, in pertinent part:

The two ends 70 and 72 of the electric heating element 28 extend through and are fastened to a bracket 74 and a bracket arm 76 extends outwardly from the bracket 74. A nipple 78 is formed on the arm 76 for the purpose of engaging detents in the bowl 12 as will hereinafter be described in greater detail. The interconnecting segment 66 of the adjusting rod 32 also extends through the bracket 74.

.... Also, in FIG. 4, the heating element ends 70 and 72 and the adjusting rod 32 are shown extending through the bracket 74 with an aperture 84 disposed immediately above and centered with respect to the ends 70 and 72.

In FIG. 5 there is shown a heating element attachment bracket 86 which includes apertures 88 and 90 that are dimensioned to receive the ends 70 and 72 of the heating element. These heating element ends 70 and 72 are inserted through the apertures 88 and 90 and the bracket 86 is crimped to secure the heating elements therein. The bracket 86 also includes an aperture 92 that is spaced from the apertures 88 and 90 in the same manner as aperture 84 is spaced from the heating elements 70 and 72. In construction, the heating element ends 70 and 72 are inserted through apertures 88 and 90, the bracket 86 is crimped, and the ends 70 and 72 are inserted through bracket 74. Thus, the attachment bracket 86 is disposed immediately behind the bracket 74 as shown in FIG. 4, and the apertures 84 and 92 are aligned. A sheet metal screw is then threadably secured through apertures 84 and 92 to secure together the brackets 74 and 86.

... Referring to FIGS. 6 and 2, it will be appreciated that the bracket 74 will rotate in conjunction with the heating element 28 and the adjusting rod 32. In FIG. 6, the heating element ends 70 and 72 and the interconnecting section 66 of the adjusting rod 32 are shown going through the bracket 74. The attachment bracket 86 is shown securing the heating elements 70 and 72 to the bracket 74 by means of a screw 102.

As the heating element 28 and the adjusting rod 32 rotate, the attachment bracket 74 moves the nipple 78 in an arc, and detents 104, 106, 108 and 110 are formed in the bowl 12 to catch and resiliently hold the nipple 78 and bracket 74 in one of four selected positions. When the nipple 78 is in the detent 104, the heating element 24 is horizontal. ....

Accordingly, Applicants respectfully request that the rejection over claim 18 be withdrawn.

Claims 19-24

Claim 19 recites,

A central body that is structured to support foodstuffs arranged around the central body, the central body comprising at least one hollow space into which a cold accumulator is introduced and further comprising inlet and outlet lines connected to at least one cooling element running substantially parallel with the central body and through which a same cooled medium flows.

Applicants submit that Wallace does not show these features. Instead, Wallace shows an internal heat exchanger for meat which includes a plurality of needles connected to a manifold system. As shown in FIGS. 3 and 4, the needles 11 have an inner tube 18 and an outer tube 17. The needles are each connected to a discharge and return manifold 9 and supply manifold 10. However, the needles do not include inlet and outlet lines connected to at least one cooling element running substantially parallel with the central body.

Claims 20-24 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on claim 19.

Accordingly, Applicants respectfully request that the rejection over claims 19-24 be withdrawn.

Claims 19-27

Applicants submit that Thomas does not show the features of claim 19. Thomas shows a refrigerated table. The table includes access doors 4 and 5, which allow access to the refrigerator. The refrigerator has insulated walls, a drain plug 7 and a refrigerant coil 13 that wraps around a container 14. Thomas does not show inlet and outlet lines connected to at least one cooling element running substantially parallel with the central body.

Claims 20-27 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on claim 19. Also, Thomas does not show many of the features of the dependent claims such as, for example, the cooling element is coupled to the central body in a removable manner (claim 25), or two cooling elements (claim 26).



Accordingly, Applicants respectfully request that the rejection over claims 19-27 be withdrawn.

Claims 19-22 sand 28

Applicants submit that Burkle does not show the features of claim 19. For example, Burkle shows a cylinder 1 with a piston 2. The lower end of the cylinder is provided with a base that is attached to a support. An inlet port and an outlet port is communicating with the cylinder; however, there simply is no disclosure whatsoever of a central body and inlet and outlet lines connected to at least one cooling element running substantially parallel with the central body.

Claims 20-22 and 28 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on claim 19.

Accordingly, Applicants respectfully request that the rejection over claims 19-22 and 28 be withdrawn.

Claims 19, 24, 28 and 29

Applicant submits that Hunter does not show the features of claim 19. Hunter shows an apparatus for internally seasoning meat prior to and during cooking. The apparatus is basically a tube 10 with a plurality of holes 16. There is no disclosure, whatsoever, of a central body and inlet and outlet lines connected to at least one cooling element running substantially parallel with the central body.

Claims 24, 28 and 29 are dependent claims, depending from a distinguishable independent claim. As such, for the reasons discussed above, these claims are also distinguishable by the virtue of their dependency on claim 19.

Accordingly, Applicants respectfully request that the rejection over claims 19, 24, 28 and 29 be withdrawn.

***35 U.S.C. §103 Rejection***

Claim 16 was rejected under 35 U.S.C. §103(a) for being unpatentable over Jovanovic. This rejection is respectfully traversed.

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Applicants submit that claim 16 is a dependent claim, depending from a distinguishable independent claim. As such, for the reasons discussed above, this claim is also distinguishable by the virtue of its dependency on claim 1.

### CONCLUSION

Applicants appreciate the indication of allowable subject matter; however, in view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,  
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